

Amendment Offered by Mr. Kind of Wisconsin

This amendment would create a tax deduction for domestic production in excess of current Section 199.

AMENDMENT

OFFERED BY MR. KIND OF WISCONSIN

Add at the end the following:

1 **TITLE VI—REBUILDING**
 2 **AMERICAN MANUFACTURING**
 3 SEC. 6001. ^{Reduced} INCOME TAX RATE FOR DOMESTIC
 4 MANUFACTURING INCOME.

5 (a) IN GENERAL.—Part VI of subchapter B of chap-
 6 ter 1 of the Internal Revenue Code of 1986 is amended
 7 by adding at the end the following new section:

8 **“SEC. 200. DOMESTIC MANUFACTURING INCOME.**

9 “(a) ALLOWANCE OF DEDUCTION.—There shall be
 10 allowed as a deduction an amount equal to 50.5 percent
 11 (43 percent in the case of a C corporation) of the lesser
 12 of—

13 (1) the domestic manufacturing income of the
 14 taxpayer for the taxable year, or

15 (2) taxable income (determined without regard
 16 to this section) for the taxable year.

17 “(b) DOMESTIC MANUFACTURING INCOME. For
 18 purposes of this section

1 “(1) IN GENERAL.—The term ‘domestic manu-
2 facturing income’ for any taxable year means an
3 amount equal to the excess (if any) of—

4 “(A) the taxpayer’s domestic manufac-
5 turing gross receipts for such taxable year, over

6 “(B) the sum of—

7 “(i) the cost of goods sold that are al-
8 locable to such receipts, and

9 “(ii) other ⁶expenses, losses, or deduc-
10 tions (other than the deduction allowed
11 under this section), which are properly al-
12 locable to such receipts.

13 “(2) ALLOCATION METHOD.—The Secretary
14 shall prescribe rules for the proper allocation of
15 items described in paragraph (1) for purposes of de-
16 termining domestic manufacturing income. Such
17 rules shall provide for the proper allocation of items
18 whether or not such items are directly allocable to
19 domestic manufacturing gross receipts.

20 “(3) SPECIAL RULES FOR DETERMINING
21 COSTS.—

22 “(A) IN GENERAL.—For purposes of deter-
23 mining costs under clause (i) of paragraph
24 (1)(B), any item or service brought into the
25 United States shall be treated as acquired by

1 purchase, and its cost shall be treated as not
2 less than its value immediately after it entered
3 the United States. A similar rule shall apply in
4 determining the adjusted basis of leased or
5 rented property where the lease or rental gives
6 rise to domestic manufacturing gross receipts.

7 “(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described
8 in subparagraph (A) that had been exported by
9 the taxpayer for further manufacture, the in-
10 crease in cost or adjusted basis under subpara-
11 graph (A) shall not exceed the difference be-
12 tween the value of the property when exported
13 and the value of the property when brought
14 back into the United States after the further
15 manufacture.

17 “(C) TREATMENT OF CERTAIN ACCELERATED
18 DEPRECIATION DEDUCTIONS. —In the case of prop-
19 erty placed in service after December 31, 2007, and
20 before the first taxable year of the taxpayer begin-
21 ning after December 31, 2016, the deduction under
22 section 168 with respect to such property which is
23 treated as properly allocable to domestic manufac-
24 turing, gross receipts of the taxpayer for any taxable

1 year shall be determined without regard to section
2 168(k)(1).

3 “(5) TREATMENT OF DEFERRED COMPENSA-
4 TION UNDER NONQUALIFIED PLANS.—In the case of
5 compensation paid or incurred by the taxpayer which
6 is deferred under a nonqualified deferred compensa-
7 tion plan (as defined in section 409A(d)(1)), the
8 amount under paragraph (1)(B)(ii) shall be deter-
9 mined as though the deduction for such compensa-
10 tion is allowed for the taxable year in which the
11 services for which such compensation was paid or in-
12 curred are performed. This paragraph shall not
13 apply with respect to compensation paid or incurred
14 for services performed in taxable years beginning be-
15 fore the first taxable year of the taxpayer beginning
16 after December 31, 2016.

17 “(c) DOMESTIC MANUFACTURING GROSS RE-
18 CEIPTS.—For purposes of this section

19 “(1) IN GENERAL.—The term ‘domestic manu-
20 facturing gross receipts’ means the gross receipts of
21 the taxpayer which are derived from any lease, rental,
22 al, license, sale, exchange, or other disposition of
23 qualified property which was manufactured, pro-
24 duced, or grown by the taxpayer in whole or in sig-
25 nificant part within the United States. Such term

shall not include gross receipts of the taxpayer which are derived from the sale of food and beverages prepared by the taxpayer at a retail establishment.

“(2) SPECIAL RULE FOR CERTAIN GOVERNMENT CONTRACTS.—Gross receipts derived from the manufacture or production of any property shall not fail to be treated as meeting the requirements of paragraph (1) solely because title or risk of loss with respect to such property is held by the Federal Government if—

“(A) such property is manufactured or produced by the taxpayer pursuant to a contract with the Federal Government, and

“(B) the Federal Acquisition Regulation requires that title or risk of loss with respect to such property be transferred to the Federal Government before the manufacture or production of such property is complete.

“(3) QUALIFIED PROPERTY.—The term ‘qualified property’ means—

“(A) any tangible personal property other than

“(i) oil, gas, and primary products thereof (within the meaning of section 199(b)(9)(C)) as in effect before the date

1 of enactment of the Tax Cuts and Jobs
2 Act)),

3 “(ii) property, with respect to which
4 section 613 applies,

5 “(iii) property described in paragraph
6 (3) or (4) of section 168(f), and

7 “(iv) electricity and potable water,
8 and

9 “(B) any computer software other than
10 video games rated M, AO, RP, or any similar
11 rating as determined by the Secretary, by the
12 Entertainment Software Rating Board.

13 “(4) PARTNERSHIPS OWNED BY EXPANDED AF-
14 FILIATED GROUPS. —For purposes of this subsection,
15 if all of the interests in the capital and profits of a
16 partnership are owned by members of a single ex-
17 panded affiliated group at all times during the tax-
18 able year of such partnership, the partnership and
19 all members of such group shall be treated as a sin-
20 gle taxpayer during such period.

21 “(5) RELATED PERSONS.

22 “(A) IN GENERAL. The term ‘domestic
23 manufacturing gross receipts’ shall not include
24 any gross receipts of the taxpayer derived from

property leased, licensed, or rented by the taxpayer for use by any related person.

“(B) RELATED PERSON.—For purposes of subparagraph (A), a person shall be treated as related to another person if such persons are treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414, except that determinations under subsections (a) and (b) of section 52 shall be made without regard to section 1563(b).

“(d) SPECIAL RULES.—

“(1) ELECTIVE APPLICATION OF DEDUCTION.—Except as otherwise provided by the Secretary, the taxpayer may elect not to take any item of income into account as domestic manufacturing gross receipt for purposes of this section.

“(2) APPLICATION OF SECTION TO PASS-THRU ENTITIES.

“(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation

“(i) this section shall be applied at the partner or shareholder level,

1 “(ii) each partner or shareholder shall
2 take into account such person’s allocable
3 share of each item described in subpara-
4 graph (A) or (B) of subsection (c)(1) (de-
5 termined without regard to whether the
6 items described in such subparagraph (A)
7 exceed the items described in such sub-
8 paragraph (B)), and

9 “(iii) each partner or shareholder
10 shall be treated for purposes of subsection
11 (b) as having an amount of each item
12 taken into account in determining quali-
13 fying domestic investment of the partner-
14 ship or S corporation for the taxable year
15 equal to such person’s allocable share of
16 such item (as determined under regula-
17 tions prescribed by the Secretary).

18 “(B) TRUST AND ESTATES.—In the case
19 of a trust or estate

20 “(i) the item referred to in subpara-
21 graph (A)(ii) (as determined therein) and
22 the qualifying domestic investment of the
23 trust or estate for the taxable year, shall
24 be apportioned between the beneficiaries
25 and the fiduciary (and among the bene-

1 ficiaries) under regulations prescribed by
2 the Secretary, and

3 “(ii) for purposes of paragraph (4),
4 adjusted gross income of the trust or es-
5 tate shall be determined as provided in sec-
6 tion 67(e) with the adjustments described
7 in such paragraph.

8 “(C) REGULATIONS.—The Secretary may
9 prescribe rules requiring or restricting the allo-
10 cation of items and qualifying domestic invest-
11 ment under this paragraph and may prescribe
12 such reporting requirements as the Secretary
13 determines appropriate.

14 “(G) APPLICATION TO INDIVIDUALS.—In the
15 case of an individual, subsection (a)(2) shall be ap-
16 plied by substituting ‘adjusted gross income’ for
17 ‘taxable income’. For purposes of the preceding sen-
18 tence, adjusted gross income shall be determined—

19 “(A) after application of sections 86, 219,
20 and 469, and

21 “(B) without regard to this section.

22 “(D) APPLICATION OF OTHER RULES.—Rules
23 similar to the rules of paragraphs (3), (4), (5), (6),
24 (7), and (10) of section 199(d) (as in effect before

1 the date of enactment of the Tax cuts and Jobs Act)
2 shall apply for purposes of this section.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 56(d)(1)(A) of such Code is amend-
5 ed by striking “section 199” both places it appears
6 and inserting “section 200”.

7 (2) Section 56(g)(4)(C) of such Code is amend-
8 ed by adding at the end the following new clause

9 “(vii) DEDUCTION FOR DOMESTIC
10 BUSINESS INCOME.—Clause (i) shall not
11 apply to any amount allowable as a deduc-
12 tion under section 200.”.

13 (3) The following provisions of such Code are
14 each amended by striking “199” and inserting
15 “200”.

16 (A) Section 86(b)(3)(A).

17 (B) Section 135(e)(4)(A).

18 (C) Section 137(b)(3)(A).

19 (D) Section 219(g)(3)(A)(ii).

20 (E) Section 221(b)(2)(C)(i).

21 (F) Section 222 (b)(2)(C)(i).

22 (G) Section 246(d)(4).

23 (H) Section 469(d)(3)(F)(iii).

24 (4) Section 163(j)(6)(A)(i) of such Code is
25 amended by striking “and” at the end of subclause

1 (III) and by inserting after subclause (IV) the fol-
2 lowing new subclause:

3 “(V) any deduction allowable under section
4 200, and”.

5 (5) Section 170(b)(2)(C) of such Code is
6 amended by striking “and” at the end of clause (iv),
7 by striking the period at the end of clause (v) and
8 inserting “, and”, and by inserting after clause (v)
9 the following new clause:

10 “(vi) section 200.”.

11 (6) Section 172(d) of such Code is amended by
12 adding at the end the following new paragraph:

13 “(8) DOMESTIC BUSINESS INCOME.—The de-
14 duction under section 200 shall not be allowed.”.

15 (7) Section 613(a) of such Code is amended by
16 striking “section 199” and inserting “section 200”.

17 (8) Section 613A(d)(1) of such Code is amend-
18 ed by redesignating subparagraphs (C), (D), and
19 (E) as subparagraphs (D), (E), and (F), respec-
20 tively and by inserting after subparagraph (B) the
21 following new subparagraph:

22 “(C) any deduction allowable under section
23 200.”.

24 (9) Section 1402(a) of such Code is amended
25 by striking “and” at the end of paragraph (16), by

1 redesignating paragraph (17) as paragraph (18),
2 and by inserting after paragraph (16) the following
3 new paragraph:

4 “(17) the deduction provided by section 200
5 shall not be allowed; and”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to taxable years beginning after
8 December 31, 2017.

9 **SEC. 6002. CORPORATE RATE INCREASE TO ACHIEVE REV-**
10 **ENUE NEUTRALITY.**

11 (a) IN GENERAL.—The rate of tax specified in sec-
12 tion 11(b)(1) of the Internal Revenue Code of 1986 (after
13 the amendment made by section 3001(a)) shall be in-
14 creased by such number of percentage points as is nec-
15 essary to fully offset the aggregate reduction in Federal
16 revenues which result from this title (and amendments
17 made by this title).

18 (b) EFFECTIVE DATE.—Subsection (a) shall apply as
19 if such provision were an amendment made by section
20 3001(a).

